

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JAMMIE L YERKS,

Petitioner,

Case No. 21-cv-0284-bhl

v.

WARDEN GARY BOUGHTON,

Respondent.

ORDER

On May 2, 2022, the Court issued an order requiring Petitioner Jammie Yerks to show cause for his failure to timely respond to Respondent's motion to dismiss. (ECF No. 11.) Yerks responded to the Court's Order on May 20, 2022. (ECF No. 12.) Per his filing, Yerks entrusted his response brief to another prisoner who had previously provided him with legal assistance. (*Id.*) That prisoner was moved to a different facility, and Yerks has not heard anything from him since. (*Id.*) Yerks is now receiving assistance from a different prisoner, but because he mailed his original jailhouse lawyer his only copy of Respondent's brief, he has been unable to respond to the pending motion to dismiss. (*Id.*) Finding the order to show cause satisfied, the Court will issue Yerks a new copy of Respondent's brief and give him until July 8, 2022 to file a response.

Yerks' filing also requests that the Court appoint him counsel. (*Id.*) The Court construes this as a motion under 28 U.S.C. Section 1915(e)(1), which gives a district court discretion to recruit counsel for a civil litigant. *Dewitt v. Corizon, Inc.*, 760 F.3d 654, 657 (7th Cir. 2014) (citing *Henderson v. Ghosh*, 755 F.3d 599, 564 (7th Cir. 2014) (per curiam)). "When confronted with a request under §1915(e)(1) for pro bono counsel, the district court is to make the following inquiries: (1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Pruitt v. Mote*, 503 F.3d 647, 654-55 (7th Cir. 2007) (citing *Farmer v. Haas*, 990 F.2d 319, 321-22 (7th Cir. 1993)). In this instance, Yerks has provided

no evidence of any reasonable attempt to obtain counsel. For this reason alone, his request must, therefore, be denied. *Pickett v. Chicago Transit Authority*, 930 F.3d 869, 871 (7th Cir. 2019).

Accordingly,

IT IS HEREBY ORDERED that the Court's Order to Show Cause, ECF No. 11, is satisfied. The Court will mail Petitioner another copy of Respondent's motion to dismiss and brief in support, ECF Nos. 9 & 10. Petitioner must then file a response brief on or before **July 8, 2022**.

IT IS FURTHER ORDERED that Petitioner's request for counsel is **DENIED**.

Dated at Milwaukee, Wisconsin on May 25, 2022.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge